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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,426	05/10/2002	Robert Gerstner	216269US2PCT	7292

27799 7590 08/12/2004

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NEW YORK, NY 10176

EXAMINER

TANNER, HARRY B

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/019,426	Applicant(s) GERSTNER ET AL.	
	Examiner Harry B. Tanner	Art Unit 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/10/02</u> . | 6) <input type="checkbox"/> Other: _____ |

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

It is assumed that original claims 1-6 have been cancelled.

Misnumbered claims 5-11 have been renumbered as claims 7-13.

The disclosure is objected to because of the following informalities: The reference to claims by number in the specification at pages 1, 2, 3 and 4 must be deleted since the claims can be deleted, amended and renumbered and thus may not correspond the matters described in the specification.

Appropriate correction is required.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over admitted prior art in view of Nishimura et al. The admitted prior art cooling system of Figures 1-3 and pages 1-5 of the specification disclose a cooling device for a computer

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system having plural thermal zones in which each zone has a temperature sensor, fan and cooling control means responsive to a setpoint temperature and sensed zone temperature. Nishimura teaches a temperature control for plural thermal zones in which the control system calculates an allocation matrix (see steps 101, 102, 103, 104, 105 of Figure 4A and col. 9, line 45 to col. 10, line 2) in order to account for the interaction of the zone temperature conditions. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the admitted prior art system such that it included a temperature control for the plural thermal zones in which the control system calculates an allocation matrix in order to account for the interaction of the zone temperature conditions in view of the teachings of Nishimura.


Claims 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over admitted prior art in view of Nishimura et al as applied to claim 7 above, and further in view of Cope et al (5,121,291). Cope teaches the use of a maximum value generator in order to control the cooling means such that the conditions of the highest temperature zone are satisfied by the cooling system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the admitted prior art system such that it included the use of a maximum value generator in order to control the cooling means such that the conditions of the highest temperature zone are satisfied by the cooling system in view of the teachings of Cope.

Claims 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over admitted prior art in view of Nishimura et al as applied to claim 7 above, and further in view of Ko et al. Ko teaches the use of an ASIC controller in an electronic device. It

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would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the admitted prior art system such that it included the use of an ASIC controller for control of the cooling means in view of the teachings of Ko.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over admitted prior art in view of Nishimura et al and Cope et al as applied to claim 8 above, and further in view of Ko et al as applied to claim 10 above.



Harry B. Tanner
Primary Examiner

Harry Tanner
August 5, 2004
703-308-2622